

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TIARA HOLY,)	
Plaintiff,)	
)	
v.)	C.A. No. 04-12228-WGY
)	
JOHN CRONIN,)	
Defendant.)	

MEMORANDUM AND ORDER

YOUNG, C.J.

For the reasons stated below, Tiara Holy shall pay the filing fee for this action or submit an application to proceed without prepayment of fees. If she takes either action, she shall also demonstrate good cause, in writing, within thirty-five (35) days of the date of this Order, why this action should not be dismissed.

BACKGROUND

On October 6, 2004 Plaintiff Tiara Holy (formerly named Norma B. Barroso), filed a self prepared complaint against the defendant John Cronin. She did not pay the \$150 filing fee, nor did she file an Application to Proceed Without Prepayment of Fees.

The precise claims presented by the Plaintiff are not entirely clear. Apart from scattered lucid allegations concerning a divorce proceeding in which she claims the defendant John Cronin was the presiding Judge of the Probate and Family Court, Essex Division, the rest of Plaintiff's complaint is virtually incoherent. Most of her submissions include what appears to be a recounting of her

background, including information about her children, real estate holdings (two pieces, one valued at \$500,000, the other valued at \$750,000), health status (nursing), genealogy (English royalty), citizenship (naturalized), education (D.D. molecular biology and genetics, chemical engineering, urbanism, and law and administration), languages spoken (Spanish, English, French, Portuguese), and interests (Mohair knittings, ballet, art, fine landscaping). (Plaintiff's complaint, pages 1-4). Also included is what appears to be a genealogy from the 1700's to the present, all written in French. (Attachment pages 1-9). In the category she labels as "Uniqueness" Plaintiff states she is an "Angel of the Lord". Under the category "Genome" Plaintiff states: "Supernatural female...Resurrected once...Went invisible twice."

The real crux of her complaint however, appears to be her traverse with Justice Cronin's Divorce Judgment. While no specific factual allegations are contained in the submission, this information is gleaned from the submission of a Promissory Note from her husband Malcolm D. Noriega for the sum of \$160,000. The Note references that it is made pursuant to a Judgment of Divorce dated July 20, 2004. Presumably, Plaintiff is not pleased with the terms of the Divorce Judgment and custody determinations. She states, in relevant part:

I, Tiara Holy, angel of the Lord, bestowed by
the Lord God Almighty himself with supernatural
power and legal authority on His holy name and

on the holy name of His beloved son our Lord Jesus Christ, hereby declare divorce judgment undersigned by Judge Cronin of no legal effect. Judge Cronin has proceeded in a fraudulent manner when managing family docket # 03D-1888-DV1....Divorce was left without valor by Plaintiff's submittance of a motion for Reconciliation. Have in mind that Plaintiff initiated divorce for infidelity and multiple homicides by Malcolm Noriega....Judge Cronin split the family disregarding legal basics....It would be just to prosecute John Cronin for murder with malice and perversity. However, my daughters whom I have not been able to contact since longtime definitely come first.

Plaintiff seeks to have this Court "make void her divorce deeds" and to "Grant Plaintiff police immunity, keeping God's instruction."

Plaintiff Holy, previously using the name "Norma Barroso", has presently pending an Appeal with the First Circuit Court of Appeals of a related action dismissed by Judge O'Toole, C.A. 04-10631-GAO, on May 7, 2004, as frivolous. That action involved allegations that President Bush was causing her emotional and physical pain and was embezzling by fraud, that her husband raped her and abused one of their children. At that time the divorce proceedings were pending.

ANALYSIS

- I. Holy Must Pay the Requisite Filing Fee Or Submit An Application to Proceed Without Prepayment of the Fees

A party filing an action in this Court must either (1) pay the

requisite filing fee for the action (\$150 for civil actions; \$5 for habeas petitions) or (2) file an application to proceed in forma pauperis on the form required by this Court entitled "Application to Proceed Without Prepayment of Fees and Affidavit" (the "Application"). See Fee Schedule for the District of Massachusetts; 28 U.S.C. § 1914 (fees); 28 U.S.C. § 1915 (in forma pauperis).

Because Plaintiff has not paid the filing fee or submitted an application for waiver of the filing fee, she shall be granted additional time to do so. Plaintiff is further advised that if she pays the fee or files an Application, this action will be subject to dismissal for the reasons stated below.

II. Plaintiff's Claims Lack An Arguable Basis in Law

A district court may *sua sponte* dismiss a non-prisoner complaint, regardless of whether payment of the filing fee has been received, where the allegations contained in the complaint, taken in the light most favorable to the plaintiff, are patently meritless and beyond all hope of redemption. Gonzalez-Gonzalez v. United States, 257 F.3d 31, 37 (1st Cir. 2001) (citations omitted); cf., Bell v. Hood, 327 U.S. 678, 682-83 (1946) (observing that dismissal for lack of subject-matter jurisdiction may result if the federal claim "clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction or...is wholly insubstantial and

frivolous."); Tyler v. Carter, 151 F.R.D. 537, 540 (S.D.N.Y. 1993)(court could *sua sponte* dismiss complaint under standards for *in forma pauperis* actions even though plaintiff paid the filing fee).

Here, plaintiff is essentially seeking review of issues related to a divorce proceeding and Judgement of Divorce entered in the Essex Probate and Family Court. Many, if not all of her allegations clearly appear to lack any arguable basis in fact. Neitzke v. Williams, 490 U.S. 319 U.S. 319, 327-328 (1989)(claims lack an arguable basis in fact when they describe fantastic or delusional scenarios); Denton v. Hernandez, 504 U.S. 25, 33 (1992)(fantastic or delusional scenarios involve alleged facts that are irrational or wholly incredible).

III. Absolute Judicial Immunity

Plaintiff names Justice Cronin as a defendant, because he "split the family disregarding legal issues." Plaintiff fails to provide any specific factual allegations with respect to the defendant's conduct. Even if this omission were not fatal to her claims against the defendant, the claims are also precluded because judges are entitled to absolute judicial immunity. See, e.g., Mireles v. Waco, 502 U.S. 9, 11 (1991) (per curiam) ("[J]udicial immunity is an immunity from suit,

not just from the ultimate assessment of damages); Pierson v. Ray, 386 U.S. 547, 553-554 (1967) (absolute judicial immunity protects integrity of judicial process; immunity applies even in instances where a judge is accused of acting maliciously and corruptly); Moore v. Brewster, 96 F.3d 1240, 1244 (9th Cir. 1996)(even where a party alleges a judge conspired with another party to rule against him, such allegations do not pierce the immunity extended to judges.) Thus, plaintiff's claims against this defendant shall be dismissed.

Similarly, Plaintiff provides no factual allegations in support of her request for police immunity. Presumably, Plaintiff is seeking to be held free from prosecution for any potential future charges which may be filed against her. Plaintiff has failed to submit any bases whatsoever for this request. Moreover, should the Plaintiff seek to enjoin any persons attempting to criminally prosecute her in the future, Plaintiff is advised that absolute judicial immunity extends to prosecuting attorneys acting within the scope of their official duties. Imbler v. Pachtman, 424 U.S. 409, 422 (1976). To the extent that Plaintiff seeks an injunction against unknown police officers from future arrests of the Plaintiff, the request is denied, as lacking any merit.

IV. The Rooker-Feldman Doctrine

Plaintiff's complaint does not on its face present any federal claims. However, to the extent that Plaintiff seeks to have this Court review, on the merits, any of the decisions Justice Cronin or the Essex Probate and Family Court, this Court lacks subject-matter jurisdiction over her claims. Lower federal courts are without subject-matter jurisdiction to sit in direct review of state court decisions pursuant to the Rooker-Feldman¹ doctrine. See, e.g., Hill v. Town of Conway, 193 F.3d 33, 34 (1st Cir. 1999) (citing Wang v. New Hampshire Bd. of Registration, 55 F.3d 698, 703 (1st Cir. 1995)) (describing Rooker-Feldman doctrine)). The jurisdiction to review state court decisions lies exclusively with superior state courts and, ultimately, the United State Supreme Court. See Feldman, 460 U.S. at 482-86; Rooker, 263 U.S. at 415-16.

The Rooker-Feldman doctrine precludes a federal action if the relief requested in that action would effectively reverse a state court decision or void its holding or if the plaintiff's claims are "inextricably intertwined" with the state court's decision. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 286 (1983) ("Federal district courts do not have jurisdiction over challenges to state-court decisions in particular cases arising

¹The Rooker-Feldman doctrine is a distillation of two Supreme Court decisions: Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923) and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). See Hill, 193 F.3d at n. 1 (describing history of doctrine).

out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional.") (internal quotation omitted); accord Johnson v. De Grandy, 512 U.S. 997, 1005-1006 (1994) (Rooker-Feldman doctrine bars "a party losing in state court ... from seeking what in substance would be appellate review of the state judgment in a United States District Court, based on the losing party's claim that the state judgment itself violates the loser's federal rights"); Mandel v. Town of Orleans, 326 F.3d 267, (1st Cir. 2003) (Rooker-Feldman doctrine precludes a lower federal court from entertaining a proceeding to reverse or modify a state-court judgment or decree to which the assailant is a party). Thus, to the extent that Plaintiff Holy seeks to have this Court review the decisions of the Essex Probate and Family Court and determine that they are incorrect, her claims are subject to dismissal. Hill, 193 F.3d 33 at 34 (dismissing).

V. The Domestic-Relations Exception

Here, there is no indication that there exists any bases for federal subject matter jurisdiction based on diversity. Plaintiff is a citizen of Massachusetts, however the citizenship of Justice Cronin is unknown. This lack of proof of diversity of citizenship is fatal. Even presuming however, that there is diversity of citizenship present, and even applying an extraordinarily generous reading of the pleadings

and presuming that the amount in controversy exceeds \$75,000 pursuant to 28 U.S.C. §1332(a)(based on the dispute over property division as evidenced by the \$160,000 Promissory Note), Plaintiff's state law claims are still subject to dismissal pursuant to the domestic-relations exception. Federal courts have traditionally declined to exercise jurisdiction over matters involving domestic relations such as divorce and custody disputes even though diversity and the jurisdictional amounts are present for purposes of diversity jurisdiction. Ankenbrandt v. Richards, 504 U.S. 689, 703 (1992) (describing doctrine); accord Elk Grove Unified School Dist. v. Newdow, 124 S. Ct. 2301, 2309 (2004) (citations omitted) (same).

CONCLUSION

ACCORDINGLY, for the foregoing reasons, it is ORDERED:

(1) Holy shall either pay the filing fee for this action or submit an application to proceed without prepayment of fees within 35 days of the date of this Memorandum or Order;

(2) If Holy pays the fee or submits an Application, she shall also demonstrate good cause, in writing, within thirty-five (35) days of the date of this Order, why the complaint should not be dismissed for the reasons stated above;

(3) The Clerk shall send Holy an Application to Proceed Without Prepayment of Fees and Affidavit.

Dated at Boston, Massachusetts, this 15th day of November, 2004.

/s/ William G. Young
WILLIAM G. YOUNG